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OBJECTIONS TO COMMISSION GOVERNMENT

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Commission government is an effort to clear away the confusion of power and responsibility that is apparent in most kinds of municipal government in this country. In order to get simplicity and avoid confusion, the entire structure has been wiped out and a new form substituted in its place. Up to this time there has been more or less distinction between legislative and executive functions in city government. The legislative department was supposed to enact ordinances, levy taxes and make appropriations. The executive was to execute the ordinances, disburse the appropriations, and attend to the business of government. These functions were more or less confused, but the distinction was there, in theory if not in practice. In proportion as they were confused and the line of demarkation between executive and legislative departments was obliterated and disregarded, there was difficulty in getting a satisfactory administration of municipal government.

The trouble in many cases has been that the legislative department has had a large part of the executive power. Councils have had power to elect the executive officers or the executive boards. This resulted in the complete domination of the business administration by the men whose duty it was to make laws. When the same men have power to make laws and execute them, or to appropriate money and spend it, there is always trouble. It is bad in business or government. That is just what happened in many cases and the result was such as to fatigue the patience of the public. Members of councils were influential in every branch of the executive department. They could and did secure the appointment of subordinates in the various departments. Such subordinates were more loyal to the councilman who secured their positions than to the head of the department in which they were employed. Policemen were in politics because they had to be. They must support the men who made their tenure of office secure. This made partisans of the policemen. The influence of councilmen was felt in awarding contracts and in the purchase of supplies.

Their friends and supporters were favored. This prevented a business administration and made economy difficult. Business men, as well as students of government, were aware of the confusion, and naturally came to the conclusion that a concentration of power and responsibility was necessary. They also saw that, in the present confusion, where a councilman can dispense patronage, log rolling is inevitable.

These conditions made people think that the whole trouble was with the legislative council. They got the idea that if they could abolish the council and give all the power, legislative and executive, to one small body called a commission, the trouble would be overcome. By some strange illusion, they imagined that placing all the power and patronage in the hands of five men would eliminate politics from municipal government. Thus they went from one extreme to another. The omnibus power was transferred from the legislative branch to the executive. It did not occur to them that this was simply the same old confusion of powers in concentrated form. It was an aggravation of the old trouble. The experience of ages has shown that the functions of legislative, executive, and judicial departments are essentially separate and distinct, and that any confusion or overlapping of these powers invariably causes trouble.

Instinctively feeling that they were running counter to human experience, the advocates of commission government tried to meet that objection by the assertion that municipal government was a thing apart. "Municipal government" they said, "is a business institution, with no legislative functions." So eminent a man as Dr. Charles W. Eliot, made that assertion. This shows how far college presidents can go astray when they set up for authorities on subjects of which they have only a superficial knowledge. There is not a city code in the United States that does not contain thousands of ordinances touching matters that concern the life, liberty, or property of the citizen. The truth is that no other body of laws interferes with individual freedom of action so much as city ordinances. In the country the law-abiding citizen hardly ever feels the tether of the law. In the city he feels it all the time. The ever present policeman is there to make him move on if he does not move of his own accord. The sanitary inspectors, the quarantine officers, and no end of functionaries are around and

about to see that the numerous city ordinances are enforced. Congestion of population makes this necessary. It is the peculiar disadvantage of city people that they have to be governed more than any other people. In the very nature of the case it cannot be otherwise. To say that municipal government has no legislative functions is the height of absurdity. Its judicial functions are not unimportant. The attempt to save the merely mischievous youth from becoming the victim of a barbarous police system which makes him a criminal by force of arms is a great problem of urban life. The protection from burglars and thieves is absolutely necessary.

Education has problems that transcend those of business and should not be held down to a commercial plane. Neither education nor the administration of justice can be commercialized without lasting injury to the community.

Commission government means that five men shall make the laws of a city with all their complex and important applications, and the same five shall execute these laws and select the recorder who tries the cases made under them.

When five men have all the power and patronage of a city government, with its millions of dollars worth of purchases and its thousands of employees, it is too great a temptation to let them make the appropriations and levy the taxes which furnish the only limitation of their power. General Robert Toombs, in framing the constitution of Georgia, said that he had locked the door of the treasury and thrown the key away. Commission government means to unlock the treasury and throw the key away. To let the same five men have the power of levying taxes and making the ordinances under which all the patronage is to be dispensed, is to invite an abuse of power.

Heretofore the legislative departments have held the power in municipal government with no effective check on the abuse of power. Now it is proposed to put all the power in the hands of fewer men in the executive branch, with no effective check on it. The last case is worse than the first. In answer to a letter of inquiry from the author, Mayor H. A. Landes, of Galveston, whose administration was of such excellence that it established the reputation of commission government, wrote as follows:

Our plan is all right and has given satisfaction to seventy-five per cent of our people because we have had efficient business men, but with dishonest,

incompetent and indifferent men in office, our plan would be more disastrous to both taxpayers and the people than the old plan; because a designing man would have a greater field to operate in, his powers being more concentrated. The plan is a secondary consideration. For satisfactory government, success in results depends upon the men in office.

Another letter of inquiry directed to the *Galveston News* was referred to Mr. John R. Hedges, of that paper, who replied as follows:

Even without a commission form of government, Galveston would necessarily have had a reform government after the storm. The eight years' results under the commission form at Galveston have been more satisfactory than results under the former aldermanic government. The placing of large power in the hands of five commissioners has worked satisfactorily because the five men up to this time have been representative business men. These men had succeeded in business before they were made commissioners. Our mayor had retired from business after making a half dozen fortunes. He would not walk across the street to be elected mayor, but if you placed the honor upon him he would take it. He is a fine, typical, Southern gentleman. Because the government is in the hands of these business men there has been no political machine. What machine exists here is composed of an element which has always fought the commission form of government. Unfortunately that element seems gradually to increase.

Mr. Hedges said the commission defeated this opposition at the last election by a two-thirds vote. At the approaching election he thought the vote would be close. In regard to getting good men to run for office he said:

It was worse than pulling teeth to get a real representative man here to run for office. Business men are simply wrapped up worshipping the eagle. They know no other god or good government—many of them.

That was in the year 1909, just before an election. The result of that election was the defeat for Mayor Landes, the ideal mayor whose superb administration made reputation for commission government.

By some strange illusion even experienced men have the idea that commission government puts an end to politics in municipal administration, and that such old disturbing factors as the liquor element and public utility corporations are held down with an iron hand. Experience shows the reverse to be true. Mayor Landes' defeat at Galveston was the result of the commission's refusal to grant licenses for beer saloons in the residence districts.

In a joint debate held in Atlanta between John MacVicar and
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Ex-Alderman Wise, of Des Moines, Mr. MacVicar made many claims for the commission government, among other things saying that under the commission a man who had somehow got \$25,000 of the city's money was forced to disgorge. In reply Mr. Wise said: "That is true, but he neglected to tell you that the man referred to is a member of the commission, with the same power to vote the public money that Mr. MacVicar has." He added that one of the first acts of the commission was to appoint as Chief of Police a man who could not earn \$1,000 a year and whose only previous connection with the police department was when he was arrested and fined for a misdemeanor. Mr. MacVicar admitted the truth of these statements, saying they did not have perfect men in office and they had made some mistakes, but he contended that the work of the commission as a whole was better than that of the previous government. However that may be, these undisputed facts are sufficient to explode the idea that commission government eliminates politics and establishes a purely business administration.

The American business man has been mesmerized by this talk of a business government and has closed his eyes to the plain facts, almost refusing to scrutinize this new thing as he would any other new proposition.

It is time now to tear away the mask of popular illusion and look commission government straight in the face. What then do we see? Absolute power in the hands of five men, the power to control life, liberty and property, make the law, execute it and judge of it, through the men they appoint; to levy the taxes; regulate the scale of values in the assessment of property; make the appropriations; spend the money, and control the auditors who check or report on the expenditures. We are told that this is a business government. No business corporation of any intelligence would tolerate such a system in its own affairs for one moment. The checks and balances of power in government that have been adopted as the result of the experience of ages cannot safely be cast aside.

Commission government is a protest against the other extreme of concentrated power, where council has all, or nearly all, of the power. The difference between the extremes is that a councilmanic government distributes the executive power among many persons. A familiar form is to have a board for each of the departments, with a member of the board from each ward. In Atlanta, for

example, there are seven executive boards elected by council and each board is composed of a member from each of the ten wards, the chairman of the council committee on that subject, and the mayor. Twelve is an unwieldy number for an executive board which actually runs the department. Under this system the head of the department becomes a figurehead. Boards are slow moving bodies, especially where they are composed of diverse political elements and each member represents a ward. Back of the board is the council that elects it, and in the election there is the give and take of wards, vote for vote, with a combination of other favors, often including a pledge to vote for certain local improvements if the member from that ward will vote for a certain candidate for some board, who in turn will secure a job for some friend or supporter of the councilman who makes the bargain. So it goes *ad infinitum*.

The concentration of executive power in the hands of five men undoubtedly makes for efficiency. It facilitates action and despatches business. So far so good, but it was not necessary to add legislative power to the executive board in order to reach this result. Just there is the fundamental error in commission government. Had it taken all executive powers from the council or the two chambers, where there is a bicameral system, and placed those powers in the hands of a few men, leaving all legislative power in the hands of the council or the council and aldermen, there would have been a salutary balance of power with increased efficiency on the executive side. To illustrate, commission government puts the power to levy taxes, regulate assessments of property, make appropriations, appoint auditors, enact laws, and control the election machinery in the hands of the five men who are to spend the money, enforce the law and judge of its violation. There is absolutely no check on an abuse of power. If the tax rate is limited by charter, they can get more money by raising the assessments. If some of their expenditures are irregular, they can appoint easy going auditors. If the ordinances put too many obstacles in the way of their political schemes, they can change the ordinances. If they want a wide open town, they can weaken the ordinances and put in a recorder who will nod on the bench.

In every city there are several powerful political factors that are always organized and ready for business. The two most con-

spicuous are the public utility corporations and the liquor dealers. Both control a large number of votes and they understand the power of combination in politics.

Five commissioners, or three men composing a majority, with all the executive, legislative, and judicial power of the city government in their hands, and with an immense patronage, including thousands of city employees and the voters employed by supply houses, are in position to do business in the political market on a gigantic scale. By combining with the public utility companies and the liquor element and bringing together the vote of these factors with the administration vote, they will have unified from one-third to one-half the vote of the city. Through the ramifications of supply houses and contractors' employees, this can be extended to a majority of the entire vote and they have an iron clad political machine which nothing short of a local revolution will break or overturn. What good is the recall under these circumstances? The public utilities get what they want and deliver their vote. The liquor dealers and the tenderloin get a wide open town and they also deliver their vote. The supply men and the favored contractors do the same. Any man who tries to start a reform is crucified. The very air becomes black with calumny about him and any number of adroit and able lawyers are employed to hound him. Even detectives are employed to watch him. He is systematically talked about in business circles as an "unsafe man." His credit is shaken, business is withdrawn from him, and finally he is in great straits to earn a living. The public is long suffering and endures such conditions for years before it rises in its strength and overturns the machine.

If commission government is not the remedy for the bad conditions of the present forms of municipal administration, what is the remedy? The answer can only be found by a return to first principles. Reduce all political factors to their simplest form. Then we can see clearly. What do we find in the crucible of this analysis? A confusion of executive and legislative powers, mainly in the hands of the legislative department, with no check on it. The remedy is not to transfer all that power to the other department, but to divide it, cutting asunder the executive and legislative departments, separating their functions, and setting them over against each other as checks and balances of power. Here alone is safety.

This is the old principle which has been vindicated by experience so long that "the memory of man runneth not to the contrary." How is it to be applied to the conditions of urban life? By a government with a simplified executive, balanced by a council or councils on the legislative side.

The idea so common among business men that a city council should be reduced to a few men and ward lines should be abolished is a dangerous error, sedulously propogated by special interests which are politically organized on a large scale. It is expensive and very difficult for an independent citizen to run for council before a whole city. The machine is everywhere with its organized force. One word and all this machinery works against the individual. He cannot overcome this opposition except by herculean effort and expenditures which few men can afford. In his own ward it is different. He fights only one branch of the machine and he can reach the voters without great expense. There is of course some danger that ward representatives will consider the local interests to the disadvantage of the general interest. For that reason, there should be a check on local representation by dividing the power of the legislative department between the popular chamber, elected by wards, and a smaller chamber, usually called an aldermanic board, elected from the city at large. The aldermanic board will be more broadly representative if its members are not elected in the same year, but come in and go out successively, so that no popular craze will completely dominate the board.

With this bicameral system, in which the local and general interests are balanced against each other, we have now to see that the legislative functions are preserved intact and that they do not encroach on the executive. All questions of taxes, appropriations and assessments, all ordinances and the control of the machinery of elections should be in the hands of the legislative department. On the other hand, the legislative branch should have nothing to do with the administration of the executive business of the city, should have no voice in the selection or election of executive officers and subordinates.

The judiciary should be appointed by the executive and confirmed by the upper chamber of the legislative branch. Then neither of the other two departments can absolutely dominate the city bench.

The legislative branch should have power to provide an independent audit of the books and publish accurate comparative statements of the work in each department compared with similar work in other cities.

Legislative bodies, properly constituted, serve the purpose of informing the public concerning the merits or demerits of the executive administration and keep the voter's interest aroused. This is the very sheet anchor of good government. When the council controls the executive, this effect is minimized, because those who exercise the power do not criticise their own actions. Put the executive power in other hands and the council will resume the functions of healthy criticism just as we see it in state legislatures and in Congress.

In order that all public interests, general and local, may be properly served and conserved, there should be in the legislative department of every considerable city, the checks and balances of the bicameral system, with a popular chamber elected by wards and an upper chamber of fewer members elected by the city as a whole. This is the only way to prevent legislation from going to hurtful extremes against the public to favor localities, or in favor of the general public at too great cost or damage to localities. The tyranny of the majority is a very real thing and has sins of omission and commission. It neglects localities of little influence or wealth and loads improvements on the influential and the wealthy. At times it fastens a nuisance, offensive to the eye, ear, or nose, and injurious to health upon the neighborhood without a pull, and no appeal to justice or humanity will avail to protect the sufferers. The appeal for relief is met with the answer that local and individual interests must give way to the general good and that, in a democratic government, the majority should rule. This hypocritical plea is made by the influential element which controls and to them the sacrifice is all right so long as it is not to be made by them. If their ox were gored, it would be confiscation of property. This kind of tyranny can only be prevented by ward representation.